

**ITEM 14**  
**ORDER TO SET ASIDE STATEMENT OF DECISION**  
**ADOPTED ON JULY 29, 1999, AND**  
**VACATE APPLICABLE PARAMETERS AND GUIDELINES AND**  
**STATEWIDE COST ESTIMATE**

Education Code Sections 39831.3, 38048, and 39831.5 [renumbered as 38048]  
Vehicle Code Section 22112

as amended by

Statutes 1994, Chapter 831  
Statutes 1996, Chapter 277  
Statutes 1997, Chapter 739

*School Bus Safety II* (97-TC-22)

Clovis Unified School District, Claimant

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**EXECUTIVE SUMMARY**

On July 29, 1999, the Commission on State Mandates (Commission) adopted a decision approving the School Bus Safety II test claim. On November 30, 1999, the Commission adopted parameters and guidelines, consolidating the October 18, 1994 parameters and guidelines from *School Bus Safety I* (CSM-4433) with the activities approved in *School Bus Safety II*. On January 25, 2001, the Commission adopted a statewide cost estimate on *School Bus Safety II*.

Statutes 2001, chapter 723 (SB 348) was enacted on October 11, 2001, to require the Bureau of State Audits to conduct an audit of the *School Bus Safety II* program.

On or about July 9, 2002, Department of Finance filed a petition for writ of administrative mandamus and complaint for declaratory relief in the Sacramento Superior Court seeking to set aside the Commission's decision in its entirety.

Statutes 2002, chapter 1167 (AB 2781) was enacted on September 30, 2002, directing the Commission to amend the parameters and guidelines to delete the activity of implementing transportation plans, and to detail the documentation necessary to support reimbursement claims. On January 23, 2003, the Commission adopted amendments to the parameters and guidelines.

On December 22, 2003, the court entered judgment ordering the writ of mandate granted in part and denied in part. On February 3, 2004, the court issued a Peremptory Writ of Mandamus commanding the Commission, as follows:

1. To set aside your statement of decision in the School Bus Safety II Test Claim, number 97-TC-22, and to vacate the parameters and guidelines and statewide cost estimate issued with respect to this test claim;
2. Pursuant to Government Code section 17559, subdivision (b), you are ordered to rehear the School Bus Safety II test claim and to issue a decision on the limited

issue of whether the federal Individuals with Disabilities Education Act (IDEA) or any other federal law requires school districts to transport any students and, if so, whether the *School Bus Safety II* test claim statutes mandate a higher level of service or new program beyond federal requirements for which there are reimbursable state-mandated costs.

As part of a separate agenda item, the Commission is required to adopt amended parameters and guidelines removing all *School Bus Safety II* references and activities from the previously consolidated *School Bus Safety I and II* parameters and guidelines.

### **Staff Recommendation**

Staff recommends the Commission adopt the following proposed Order to Set Aside Statement of Decision Adopted on July 29, 1999, and Vacate Applicable Parameters and Guidelines and Statewide Cost Estimate.

Following the hearing, Commission staff will:

- Notify the State Controller's Office and the Legislature of the Commission's actions; and
- Issue a proposed briefing schedule to the parties and schedule a tentative hearing date to address and rehear the limited federal law issue, in order to comply with the remainder of the order of the court.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 39831.3, 38048, and 39831.5 [renumbered as 38048] and Vehicle Code Section 22112 as amended by Statutes 1994, Chapter 831, Statutes 1996, Chapter 277, and Statutes 1997, Chapter 739;

Filed on December 22, 1997;

By Clovis Unified School District, Claimant.

No. 97-TC-22

*School Bus Safety II*

ORDER TO SET ASIDE STATEMENT OF  
DECISION ADOPTED ON JULY 29, 1999,  
AND VACATE APPLICABLE  
PARAMETERS AND GUIDELINES AND  
STATEWIDE COST ESTIMATE

*(Proposed on March 25, 2004)*

**ORDER TO SET ASIDE STATEMENT OF DECISION**

On December 22, 2003, the Sacramento County Superior Court entered judgment and on February 3, 2004, issued a peremptory writ of mandamus, directing the Commission on State Mandates (Commission) to set aside the Statement of Decision adopted on March 25, 2003, and to vacate the parameters and guidelines and statewide cost estimate issued with respect to this test claim.

In accordance with the peremptory writ of mandamus, the Commission hereby sets aside the Statement of Decision adopted on July 29, 1999, and vacates the January 25, 2001 statewide cost estimate. In addition the Commission vacates the *School Bus Safety II* portions of the *School Bus Safety I and II* parameters and guidelines, as last amended on January 23, 2003. Copies of each are attached hereto.

As part of a separate agenda item, the Commission will adopt amended parameters and guidelines removing all *School Bus Safety II* references and activities from the previously consolidated *School Bus Safety I and II* parameters and guidelines.

Pursuant to the peremptory writ of mandamus, the Commission will rehear the limited issue of whether the federal Individuals with Disabilities Education Act (IDEA) or any other federal law requires school districts to transport any students and, if so, whether the *School Bus Safety II* test claim statutes mandate a higher level of service or new program beyond federal requirements for which there are reimbursable state-mandated costs.